

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 408 of 1990

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NANUBHAI RANCHHODBHAI AKBARI

Versus

STATE OF GUJARAT & 4 OTHERS

Appearance:

MR JAYANT PATEL for Petitioner

MR SR DIVETIA APP for Respondent No. 1

(MR BK PARIKH) : Respondent Nos. 2, 3, 4, 5-Served

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 06/08/98

ORAL JUDGEMENT

At the oral request made by Mr. Patel, the order made earlier today is recalled. Petition is resorted on the files of this Court.

2. Heard learned advocate Mr. Patel for the petitioner. Petitioner at the relevant time was Sarpanch of village Vankia, Taluka-Amreli, District-Amreli. A complaint for the offence punishable under Sections 406, 209, 419, 420, 467, 477 IPC was lodged before the learned Judicial Magistrate, First Class, Amreli against the present respondent nos. 2 to 5. The respondent no. 2, being the Sarpanch of the village at the relevant time and respondent no. 3 being Talati-cum-Mantry at the relevant time. It was alleged that a grant of Rs. 19,075/- was sanctioned for laying pipeline in two of the streets of the village for which a contract was given to the respondent no. 4 herein and the sum of Rs. 18,000/- was paid to the said respondent. However, infact, the pipeline was laid by the residents of the said village at their own expense and thus, the respondents had misappropriated the sum of Rs. 18,000/- earmarked for laying the pipes; as aforesaid. Pursuant to the said complaint, police investigation was ordered and a Criminal Case No. 984 of 1987 was lodged against the accused-respondents nos. 2 to 5. The learned Magistrate under his judgment and order dated 28th September, 1990 acquitted all the accused of the charge framed against them.

3. Feeling aggrieved, the petitioner has preferred present revision application under Section 397 CrPC. Having considered the evidence brought on record and the depositions of the residents of the village, the learned Magistrate has held that the main pipeline was laid by the Panchayat at its expenses, however, individual connections were taken by the residents at their personal expenses. Even the audit report does not disclose that the money earmarked for laying the pipeline, as aforesaid, were not utilized for laying the pipeline. Mr. Patel has not been able to assail the findings recorded by the learned Magistrate. In view of the findings recorded by the learned Magistrate, the order of acquittal made in favour of the accused-respondents nos. 2 to 5 cannot be said to be erroneous or illegal. The order, therefore, does not call for interference by this Court. Petition is dismissed. Rule is discharged. There shall be no order as to costs.

Prakash*